

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 526 - SB 1095**

March 9, 2009

**SUMMARY OF BILL:** Increases the penalty to a Class E felony for a fourth or subsequent violation of domestic assault, violation of an order of protection, or any combination thereof. Domestic assault is currently punished as assault which can be either a Class A or Class B misdemeanor. Violation of an order of protection or restraining order is currently punished as a Class A misdemeanor.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenue – Not Significant**

**Increase State Expenditures - \$2,595,000/Incarceration\***

**Increase Local Revenue – Not Significant**

**Increase Local Expenditures – Not Significant**

Assumptions:

- According to the Administrative Office of the Courts (AOC), there has been an average of 637 convictions of domestic assault in each of the past five years. The Department of Correction (DOC) estimates 10 percent (64) are fourth or subsequent convictions and will result in a Class E felony rather than a Class A or Class B misdemeanor.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in an additional six offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 70 offenders.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to DOC, the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days).
- Seventy offenders would receive a Class E felony as a result of this bill. The total additional operating cost for 70 offenders is \$2,488,367.70 (\$35,548.11 x 70).

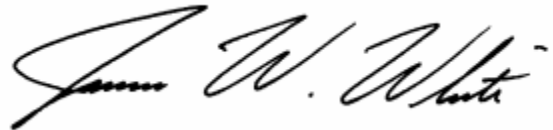
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- According to the AOC, there has been an average of 29 convictions of violations of orders of protection in each of the past three years. DOC estimates 10 percent (3) would be fourth or subsequent convictions and will result in a Class E felony rather than a Class A misdemeanor. No significant incarceration cost increase will occur due to population growth for these offenses in this period. Three offenders would receive a Class E felony as a result of this bill. The total additional operating cost for three offenders is \$106,644.33 (\$35,548.11 x 3).
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in revenue as a result of this bill.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" and last name "White" clearly distinguishable.

James W. White, Executive Director

/lsc